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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-sixth session
Agenda item 15

DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Report of the Working Group on Indigenous Populations
on its twelfth session

Corrigendum

Paragraph 41

For the existing text, substitute

41. The observer delegate for Brazil pointed out the attention given to the draft declaration in his country, particularly in the press. He expressed the opinion that, in order to be universally acceptable, the draft declaration should take into account inter alia the diversity of situations in which indigenous communities were found throughout the world, as well as their different degrees of economic and social development. He emphasized that, although the draft declaration contained a great number of articles generally considered to be positive, such as those relating to cultural identity and indigenous development, some of its provisions give rise to concern in their present formulation, and might encounter difficulty in being accepted by many Governments. He referred, in particular, to the provisions on the right to self-determination, which were not, in their present formulation,

consistent with constitutional and international law practices. He also observed that the use of the words "indigenous peoples" as the subjects of the rights contained in the draft might lead to ambiguous interpretation, incompatible with international law. He considered that further clarification would also be required on the meaning and extent of indigenous autonomy and self-government in matters relating to their internal and local affairs, as well as on the concept of demilitarization of indigenous lands and on access by indigenous people to international procedures for conflict resolution with States. He proposed that the expression "land, territories and resources" be replaced by the words "land and natural resources" in order better to reflect the diversity of situations and indigenous tenure regimes throughout the world. It was the view of his Government that the articles which were intended to ensure indigenous people access to international cooperation for environmental protection and improving the productive capacity of their lands did not reflect adequately the role as catalyst and the coordination role that must be played by governmental agencies. In concluding, he said that the declaration, when adopted in its final version, would reflect an adequate balance between the aspirations of indigenous people and the concerns of Governments in order to be effective.

Page 17

After paragraph 57, insert the following paragraph.

The observer for Brazil informed the Working Group that the new Federal Law on Indigenous Societies in his country had recently been approved by the Brazilian Chamber of Deputies and was soon to be considered by the Senate for final adoption. That new legislation envisaged the promotion of indigenous participation in the decision-making process in matters which affected the implementation of the right of indigenous communities to benefit from the exploitation of natural resources in their lands, including by regulating mining activities on them, and the protection of intellectual property rights of their traditional knowledge in order to ensure compensation and sharing of benefits arising from the sustainable utilization of that indigenous heritage.

Paragraph 62 on page 17 should read:

62. The observer for Brazil informed the Working Group of recent developments concerning the Yanomami community. He explained that, as a result of a series of conflicts involving gold diggers and Indians, 16 Yanomamis had died and four others had been injured in an incident that had occurred along the border between Brazil and Venezuela. A bilateral committee had been set up by the respective Governments to follow up measures taken in both countries to inquire into the matter. As a result of police investigations, five persons had been indicted and charged with murder, illegal mining, smuggling, hiding corpses and damaging indigenous patrimony. During the second meeting of the ad hoc bilateral committee an in situ fact-finding mission had taken place and special arrangements put in place to facilitate the exchange of evidence allowing the

prosecution of the suspects. As a further step to protect the Yanomami and other indigenous communities in the Amazon, the Brazilian Government was implementing an extensive surveillance system to control air traffic and prevent the invasion of indigenous lands by gold diggers.

Paragraph 76

Replace the words "indigenous lands" in the paragraph by "indigenous territories".

Paragraph 103

The paragraph should read:

The observer delegate for Brazil expressed his disappointment with the proposals contained in the report by the Chairman of the Technical Meeting, many of which he considered not to be action-orientated or directly related to the goals set out for the Decade in resolution 48/163. His Government expected a programme of action supportive of sustainable development of indigenous populations. Although some of the proposals constituted a useful basis for the elaboration of specific agendas of action by the United Nations system, he was concerned by the biased focus on building up a network between the United Nations Secretariat and indigenous communities, by-passing government channels. Among the thematic areas proposed, the inclusion of polemic issues, such as "self-determination", did not help a constructive dialogue among Governments and indigenous observers to devise pragmatic projects for concrete action to benefit national indigenous populations. He proposed that protection of the intellectual property rights of indigenous knowledge be added to the list of thematic projects. Lastly, he emphasized the importance of bilateral cooperation, in particular financial and technical cooperation, for the success of the International Decade.

Paragraph 128

The paragraph should read:

The observer for Uruguay made a statement on behalf of Brazil, Nicaragua, Panama and his own country. He expressed the view that the Working Group had established, throughout its existence, a constructive framework for dialogue among its members and observers from Governments and indigenous populations. However, the legal basis for the convening of the Working Group was that of an ad hoc group authorized annually by its parent bodies. The Vienna Declaration and Programme of Action, by recommending consideration of the possible establishment of a permanent forum for indigenous people, had given the opportunity to establish, on a permanent basis, the positive experience of the Working Group. In that sense, the possibility was open for broadening of its mandate, and including new issues such as sustainable development, health and economic

activities. That would be in line with the goals of the International Decade and it would allow the Working Group to make recommendations, through appropriate channels, to the relevant agencies of the United Nations system. In the view of those countries, it might also be considered, in adopting a decision to make the Working Group a permanent body, to recognize, exceptionally, that indigenous observers did not need to be accredited to the Economic and Social Council, although their legitimate participation should be according to criteria to be defined.